



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

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GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

LEGISLATIVE DEPARTMENT : : : LEGISLATIVE BRANCH

NOTIFICATION

The 21st March, 2025

No. LGL.239/2022/272.— The following Act of the Assam Legislative Assembly which received the assent of the Hon'ble President of India on 13th March, 2025 is hereby published for general information.

ASSAM ACT NO. III OF 2025

(Received the assent of the Hon'ble President of India on 13th March, 2025)

THE ASSAM SHOPS AND ESTABLISHMENT ACT, 2022

AN ACT

to provide for regulations of conditions of employment and other conditions of service of workers and employees in shops and commercial establishments and establishments for public amusement or entertainment and other establishment and for matters connected and incidental thereto.

Preamble

Whereas it is expedient to provide for the regulation of conditions of workers and employment in shops and commercial establishments and establishments for public entertainment or amusement or other establishment and matters connected therewith and incidental thereto in the State of Assam.

It is hereby enacted in the Seventy- third Year of the Republic of India as follows :-

Short title, extent and commencement

1. (1) This Act may be called the Assam Shops and Establishments Act, 2022.
- (2) It extends to the whole of the state of Assam.
- (3) It shall come into force at once.

CHAPTER-1

PRELIMINARY

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,-
 - (1) "Chief Facilitator" means the Chief Facilitator appointed as such under section 23 of the Act;
 - (2) "commercial establishment" means an establishment which carries business of advertising, commission or forwarding or commercial agency, a department or a factory in which persons are employed in a clerical capacity in any room or place where no manufacturing process is being carried on, a clerical department of any industrial or commercial undertaking including one of public transport, an insurance company, joint stock company, brokers office or exchange, or such other establishment or class thereof as the Government may, by notification, declare to be a commercial establishment for the purposes of all or any of the provisions of this Act, but does not include a shop or an establishment for public entertainment or amusement;
 - (3) "day" means the period of twenty-four hours beginning at midnight;

- (4) "employer" means an owner or a person who has ultimate control over the affairs of a shop or an establishment, and includes-
- (i) in the case of a firm or association of individuals, a partner or member of the firm or association;
 - (ii) in the case of a company, a director of the company;
 - (iii) in the case of an establishment owned or controlled by the Central Government or a State Government or any local authority, the person or persons appointed to manage the affairs of such shop or establishment by the Central Government or the State Government or the local authority, as the case may be;
- (5) "establishment" means an establishment which carries on, any business, trade, manufacture or any journalistic or printing work, or business of banking, insurance, stocks and shares, brokerage or exchange or profession or any work in connection with, or incidental or ancillary to, any business, trade or profession or manufacture; and includes,-
- (i) establishment of any medical practitioner (including hospital, dispensary, clinic, polyclinic, maternity home and such others), architect, engineer, accountant, tax consultant or any other technical or professional consultant;
 - (ii) a society registered under the Societies Registration Act, 1860 and a charitable or other trust, whether registered or not, which carries on, whether for purposes of gain or not, any business, trade or profession or work in connection with or incidental or ancillary thereto;

Central Act
No. XXI of
1860
 - (iii) shop, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment to whom the provisions of the Factories Act, 1948 do not apply;

Central Act
No. 63 of
1948
 - (iv) such other establishment as the Government may, by notification in the Official Gazette, declare to be an establishment for the purposes of this Act;

- (6) “establishment for public entertainment or amusement” means a restaurant, eating house, cafe, cinema, theatre and such other establishments or class thereof as the Government may by notification, declare to be, for the purposes of this Act, an establishment for public entertainment or amusement, but does not include a shop or a commercial establishment;
- (7) “Facilitator” means a facilitator appointed under section 23 of the Act;
- (8) “factory” means any premises and the precincts thereof which is a factory within the meaning of clause (m) of section 2 and section 85 of the Factories Act, 1948; Central Act
No. 63 of
1948
- (9) “Government” means the Government of Assam;
- (10) “holiday” means a day on which a worker shall be given a weekly off under the provisions of this Act;
- (11) “leave” means a leave mentioned under section 17 of this Act;
- (12) “local authority” means,-
- (i) the Municipal Corporation constituted under the Guwahati Municipal Corporation Act, 1969 or constituted or deemed to be constituted under the Assam Municipal Corporation Act, 2022; Assam Act
No.1 of 1973.

Assam Act
No.8 of 2022
 - (ii) a Municipality constituted under the Assam Municipal Act, 1956; Assam Act
No.15 of
1957
 - (iii) a Panchayat constituted under the Assam Panchayat Act, 1994; Assam Act
No.18 of
1994
- (13) “member of the family of an employer” means the wife, husband, son, daughter, father, mother, brother or sister of an employer who lives with and is dependent on such employer;
- (14) “notification” means a notification published in the Official Gazette;
- (15) “opened” means opened for the service of any customer, or for any business of the establishment, or for work, by or with the help of any worker of or connected with the establishment;
- (16) “prescribed” means prescribed by rules made under this Act;

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- (17) "prescribed authority" means the Commissioner of Labour for the purpose of this Act;
- (18) "register of establishments" means a register maintained for the registration of shops and establishments under this Act, either manually or in electronic format;
- (19) "registration certificate" means a certificate of registration of a shop or establishment;
- (20) "shift" means where work of the same kind is carried out by two or more sets of workers working during different periods of the day, each of such sets is called a group or relay and each of such period is called a shift;
- (21) "shop" means any premises where goods are sold, either by retail or wholesale or where services are rendered to customers and includes an office, a store-room, godown, warehouse or work place, whether in the same premises or otherwise, mainly used in connection with such trade or business, but does not include a factory;
- (22) "spread-over" means the period between the commencement and the termination of the work of a worker on any day;
- (23) "wages" means all remuneration (whether by way of salary, allowances or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes,-
- (i) any remuneration payable under any award or settlement between the parties or under any order of a court or tribunal;
 - (ii) any remuneration to which the person employed is entitled in respect of overtime work or holidays or any leave period;
 - (iii) any additional remuneration payable under the terms of employment (whether called a bonus or by any other name);
 - (iv) any sum which, by reason of the termination of employment of the person employed, is payable under any law, contract or instrument

- which provides for the payment of such sum, whether with or without deductions;
- (v) any sum to which the person employed is entitled under any scheme framed under any law, for the time being in force; and
 - (vi) house rent allowance payable in cash, but does not include,-
 - (a) any bonus, which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or under any order of a court;
 - (b) the value of any accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the Government;
 - (c) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;
 - (d) any travelling allowance or the value of any travelling concession;
 - (e) any sum paid to the employed person to defray special expenses entailed to him by the nature of his employment; or
 - (f) any gratuity payable on the termination of employment in cases other than those specified in sub-clause (iv) above;
- (24) “week” means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Chief Facilitator or Facilitator;
- (25) “worker” means any person including a person engaged through an outsourcing agency (except an apprentice under the Apprentices Act, 1961) employed to do any manual, unskilled, skilled, technical, operational or clerical work for hire or reward, whether the terms of employment be express or implied.

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| Act not to apply to certain persons and premises | <p>3. (1) The provisions of this Act shall not apply to,-</p> <ul style="list-style-type: none"> (a) a worker occupying position of confidential, managerial or supervisory character in a shop or in an establishment; (b) establishments of the Central or the State Government; (c) establishments of local authorities; (d) offices of Reserve Bank of India; (e) any establishment used for the treatment or care of the infirm, destitute or mentally unfit; (f) a member of the family of an employer; and (g) a worker whose work is inherently intermittent. <p>(2) A list of the workers referred to in clause (a) to (g) of sub section (1) above, shall be displayed at a conspicuous place and on the website of the shop or establishment and a copy thereof shall be sent to the Facilitator.</p> |
| Application of the Act to other establishments and workers | <p>4. Notwithstanding anything contained in this Act, the Government may, by notification in the Official Gazette, declare any establishment or class of establishments to which, or any worker or person or class of workers or persons to whom, this Act or any of the provisions thereof does not for the time being apply and to establishment or class of establishments or a worker or a person or class of workers or persons to which or whom this Act or any provisions thereof with such modifications or adaptations as may in the opinion of the Government be necessary shall apply from such date as may be specified in the notification.</p> |
| Protection of rights of workers under any other law, etc. | <p>5. Nothing in this Act shall affect any right or privilege which a worker in any shop or establishment is entitled to at the date of commencement of this Act under any other law, contract, custom or usage applicable to such shop or establishment or any award, settlement or agreement binding on the employer and the worker in such shop or establishment, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act.</p> |

CHAPTER-II

REGISTRATION OF SHOPS AND ESTABLISHMENTS

Registration and
Issue of Labour
Identification
Number

6. (1) On the commencement of this Act, every shop or establishment employing five or more workers shall apply online in a form as may be prescribed for registration to the Chief Facilitator or any Facilitator of the concerned area and obtain a Labour Identification Number (LIN) within a period of sixty (60) days from the date of opening of such shop or establishment.
- (2) The shop or establishment shall pay online along with their application such fees and such self-certified documents as may be prescribed, containing:-
- (i) the name of the Employer and the manager;
 - (ii) the postal address of the establishment;
 - (iii) the name, if any of the establishment;
 - (iv) the actual nature of the business of the establishment;
 - (v) such other particulars as may be prescribed;

Provided that, nothing contained herein above shall apply to the shops and establishments already having valid registration under the Assam Shops and Establishments Act, 1971 until the expiry of their registration or renewal.

Assam Act
No. XXI of
1974

- (3) On receipt of the application along with the documents and the fees, the Facilitator shall, register the shop or establishment in the register of establishments in such manner as may be prescribed and shall issue online, in such form as may be prescribed, a registration certificate or renewal certificate along with the Labour Identification Number (LIN) to the employer within a period of fifteen (15) days from the date of receipt of such application. The Facilitator shall verify the correctness of the application and documents attached thereto within such time as may be prescribed. The registration certificate shall be produced whenever it is demanded by the Chief Facilitator or Facilitator and shall be pre-dominantly displayed at some conspicuous space of the shops and establishments.

- (4) A registration certificate issued under sub-section (3) above, shall remain in force from the date of issue till the completion of five (5) years or change in ownership or nature of business takes place. In case of change in ownership or nature of business, the employer of every establishment shall have to obtain fresh registration certificate.

Intimation by
establishment
having less than
five workers

7. (1) Within a period of sixty (60) days from the date of the commencement of this Act or the date on which establishment commences its business, the employer of every establishment employing less than five workers shall give an intimation of having commenced the business to the Chief Facilitator and Facilitator authorized on behalf of the Chief Facilitator in whose jurisdiction the establishment is located, by submitting online application, in the prescribed form, together with such self-declaration and self-certified documents, as may be prescribed, containing details such as name of the employer and manager, name and address of the establishment, nature of business, number of workers and such other details as may be prescribed. The Facilitator shall issue to the employer of such establishment, a receipt of intimation in such form and manner as may be prescribed. The details of the intimation receipt shall be recorded online in a register maintained in such form as may be prescribed:

Provided that if at any point of time the number of workers engaged in the establishment become five or more, then all provisions of this Act shall apply to such establishment and the employer of such establishment shall have to obtain registration as per the provisions of section 6 of this Act:

Provided further that, nothing contained herein above shall apply to the shops and establishments already having valid registration under the Assam Shops and Establishments Act, 1971 until the expiry of their registration.

Assam Act
No. XXI of
1974

- (2) Whoever, contravenes the provisions of this section or rules framed thereunder shall be punishable with a fine of rupees five thousand which may extend upto rupees ten thousand.

- (3) An application for the renewal of a registration certificate shall be submitted online not less than thirty (30) days before the date of expiry of the registration certificate or of the renewed registration certificate, as the case may be, and shall be accompanied by such fees, and the renewed registration certificate shall be in such form, as may be prescribed.
- (4) If the application for the renewal of a registration certificate is submitted after the expiry of the period specified in sub-section (3) but within thirty (30) days after the date of expiry of the registration certificate or of the renewed registration certificate, as the case may be, such application shall be accompanied by an additional fee as late fee equal to half of the fee payable for the renewal of a registration certificate.
- (5) In the event of any doubt or difference of opinion between an employer and the Facilitator with respect to any provisions of this Act, the Facilitator shall refer the matter to the prescribed authority which shall, after inquiry as it thinks proper, decide the matter and its decision shall be final for the purposes of this Act.

Cancellation of
registration of
shops and
establishment

8. At any time, if it is found or brought to the notice of the Chief Facilitator and Facilitator that the registration of any shop or establishment has been obtained by misrepresentation or suppression of material facts or by submitting false or forged documents or false declaration or by fraud, the Facilitator shall, after giving an opportunity of being heard to the employer of the shop or establishment, cancel the registration and remove such shop or establishment from the register of establishments in the manner as may be prescribed.

Change to be
communicated

9. It shall be the duty of every employer to inform to the Chief Facilitator or Facilitator in the prescribed form, any change in any of the particulars contained in the application submitted under section 6 of this Act within such period and such fees as may be prescribed. The Facilitator shall, on receiving such notice and the prescribed fees along with the self-declaration of the applicant and self-certified documents under sub-section (2) of section 6, make the changes in the register of establishments in accordance with such notice and shall issue a fresh registration certificate online within a period of fifteen (15) days.

- Notice for closure of business 10. The employer shall inform, in such form and in such manner, as may be prescribed, to the Chief Facilitator and Facilitator within thirty (30) days from the date of closing of the business that the shop or establishment has been closed for business. The Facilitator on receiving the information and on being satisfied about its correctness shall remove the entry of such shop or establishment from the register of establishments and cancel the registration certificate:

Provided that, if the Facilitator does not receive the information but he is otherwise satisfied that any shop or establishment has been closed, he may remove the entry of such shop and establishment from the register of establishment and cancel such certificate.

CHAPTER III

DUTIES OF EMPLOYER

- Prohibition of discrimination of women 11. (1) No woman worker shall be discriminated in the matter of recruitment, training, transfer or promotion or wages.

- (2) No woman worker shall be required or allowed to work in any establishment except between the hours of 6 a.m. and 9 p.m.:

Provided that, where the Government or any person, authorized by it in this behalf, if satisfied that the provisions of shelter, rest room, night crèche, ladies toilet, adequate protection of dignity, honour and safety, protection from sexual harassment, and their transportation from the shop or establishment to the door step of their residence exists in such shop or establishment, it may, issue order, after obtaining the consent of the women worker, allowing her to work between 9 p.m. to 6 a.m. subject to such conditions as may be specified in the notification.

- Health and safety of worker 12. (1) Every employer shall take such measures relating to the health and safety of the worker including cleanliness, lighting, ventilation and prevention of fire as may be prescribed.

- (2) Every employer shall be responsible for providing constant adequate supervision of the worker employed in the shop or establishment and to ensure the compliance with the rules relating to health and safety made under sub-section (1) and for taking steps necessary to prevent accidents.

Fixing of hours
of work and
spread over

13. (1) No adult worker shall be required or allowed to work in a shop or establishment for more than forty-eight hours in any week and nine hours in a day and no worker shall be asked to work continuously for more than five hours unless he has been given a break of not less than half an hour:

Provided that, the working hours or weekly holiday may be relaxed in case of work of urgent nature with the previous permission of the Facilitator.

- (2) The total number of hours of work in a shift including the rest interval shall not exceed four and half hours in any shop or establishment and in case a worker is entrusted with intermittent nature of work or urgent work, the spread over shall not exceed twelve hours.
- (3) Any working hour beyond nine hours a day or forty-eight hours a week shall be treated as overtime and the total number of overtime hours shall not exceed one hundred and twenty-five hours in a period of three months.
- (4) The Government shall subject to sub-section (1) above,
- (i) prescribe the number of hours of work which shall constitute a normal working day for the workers employed in the shop or establishment, inclusive of one or more specified intervals; and
 - (ii) provide for a day of rest in every period of seven days, which shall be allowed to all the workers employed in the shop or establishment and for the payment of remuneration in respect of such days of rest.
- (5) The provisions of sub-sections (1) and (2) shall, in relation to the following class of workers employed in such shop or establishment, apply only to such extent, and subject to such conditions, as may be prescribed, namely:-
- (i) workers engaged on urgent work, or in any emergency which could not have been foreseen or prevented;
 - (ii) workers engaged in the nature of preparatory or complementary work which must necessarily be carried on outside the normal hours of work laid down in the rules;

- (iii) workers engaged in any work which for technical reasons has to be completed before the day is over;
 - (iv) workers engaged in a work which cannot be carried on except at times dependent on the irregular action for natural forces; and
 - (v) highly skilled workers (such as workers working in the Establishments of Information Technology, Bio-Technology and Research and Development Divisions).
- Payment of wages for overtime work
14. Where a worker is required to work in a shop or establishment beyond nine hours a day or forty eight hours a week, he shall be entitled, in respect of the overtime work, wages at the rate of twice his ordinary rate of wages. The total number of overtime hours shall not exceed one hundred and twenty-five hours in a period of three months.
- Shift working and overtime work
15. (1) A department or any section of a department of the shop or shift establishment may work in more than one shift at the discretion of the employer and if more than one shift are worked, the worker may be required to work in any shift at the discretion of the employer.
- (2) A shop or establishment may work on all days in a week subject to the condition that every worker shall be allowed weekly holiday of at least twenty-four consecutive hours of rest.
- (3) If a worker is denied weekly holiday, the compensatory leave in lieu thereof shall be given within two months of such weekly holiday.
- (4) The period and hours of work in a week for all classes of workers in such shift shall be informed to all workers in writing and shall be sent to the Facilitator electronically or otherwise.
- (5) Where a worker is required to work on a day of his rest, he shall be entitled to wages at the rate of twice his ordinary rate of wages.
- Furnishing of Identity Card to worker
16. The employer of a shop or an establishment shall furnish to every worker an identity card which shall be produced by the worker on demand by Facilitator. Such Identity Card shall contain particulars as may be prescribed.

CHAPTER IV LEAVE WITH PAY AND PAYMENT OF WAGES

Annual leave,
casual and sick
leave and other
holiday

17. (1) Every worker shall be allowed a weekly holiday with wages:

Provided that the Government may, by notification in the Official Gazette, fix different days as weekly holiday for different classes of shops and establishments or areas.

- (2) Every worker shall be entitled to eight days casual leave with wages in every calendar year which shall be credited into the account of the worker on a quarterly basis.
- (3) Every worker who has worked for a period of two hundred and forty days or more in a shop or establishment during a calendar year shall be allowed during the subsequent calendar year, leave with wages for a number of days calculated at the rate of one day for every twenty days of work performed by him during the previous calendar year.
- (4) Every worker shall be permitted to accumulate earned leave up to a maximum of forty-five days.
- (5) Where the employer refuses to sanction the leave due when applied fifteen days in advance, then the worker shall have a right to encash the leave in excess of forty-five days:

Provided that, if a worker is entitled to leave other than casual and festival leave under this section, is discharged by his employer before he has been allowed the leave, or if, having applied for and having been refused the leave, he quits his employment on account of retirement, resignation, death or permanent disability, the employer shall pay him full wages for the period of leave due to him.

- (6) Every worker shall be entitled to seven days leave on medical ground with wages in every calendar year which shall be credited into the account of the worker in the beginning of the calendar year but shall lapse if unavailed at the end of the year.
- (7) A worker shall be entitled to eight days paid festival holidays in a calendar year, namely, the 26th January, 15th August and 2nd October and five such other festival holidays as may be agreed to between the employer and the workers before the commencement of the year. On these days, he shall be paid wages at the rate equivalent to his ordinary rate of wages excluding overtime:

Provided that, the employer may require any worker to work in the shop or establishment on all or any of these days, subject to the conditions that for such work the worker shall be paid double the amount of the ordinary rate of wages and also leave on any other day in lieu of the compulsory holiday.

(8) For the purpose of sub-section (3) above,-

- (i) any days of lay-off, by agreement or contract or as permissible under the model standing orders or standing orders certified under provisions of the Industrial Employment (Standing Orders) Act, 1946;
- (ii) in the case of a woman worker, maternity leave under the provisions of the Maternity Benefits Act, 1961;
- (iii) the leave earned in the year prior to that in which the leave is availed; or
- (iv) the absence of the worker due to temporary disablement caused by an accident arising out of and in the course of his employment, shall be deemed to be days on which the worker has worked in the shop or establishment for the purpose of computation of the period of two hundred and forty days or more, but shall not earn leave for these days.

Central Act
No. 20 of
1946.

Central Act
No. 53 of
1961

- (9) The leave admissible under sub-section (3) shall be exclusive of all holidays whether occurring during or either at the end of the period of leave.
- (10) Every worker shall be paid wages for the period of his leave earned under sub-sections (3) and (4) above at a rate equivalent to the daily average of his wages for the days on which he actually worked during the preceding three months, exclusive of any earnings in respect of overtime.

CHAPTER V WELFARE PROVISIONS

Drinking
water

- 18. Every employer shall make effective arrangement to provide and maintain at suitable points conveniently situated for all workers employed in the shop or establishment, a sufficient supply of wholesome drinking water.

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| Latrines and Urinals | <p>19. Every employer shall provide separate sufficient rest-room, latrine and urinal for men and women as may be prescribed and these shall be so conveniently situated as may be accessible for the workers employed in the shop or establishment:</p> <p style="padding-left: 40px;">Provided that, several employers may provide common facilities of separate latrines and urinals for men and women, in case it is not possible to provide such facility individually, in a shop or establishment due to constraint of space or otherwise.</p> |
| Crèche facility | <p>20. In every shop or establishment wherein thirty or more woman workers or fifty or more woman workers are ordinarily employed, there shall be provided and maintained a suitable room or rooms as crèche for the use of children of such woman workers :</p> <p style="padding-left: 40px;">Provided that, if a group of establishments, so decide to provide a common crèche within a radius of one kilometre, then, the same shall be permitted by the Chief Facilitator, subject to such conditions as may be specified in the order.</p> |
| First-aid | <p>21. Every employer shall provide at the place of work first-aid facilities as may be prescribed.</p> |
| Canteen | <p>22. The employer shall provide and maintain in the shop or establishment, wherein not less than one hundred workers are employed or ordinarily employed to maintain a canteen for the use of its workers:</p> <p style="padding-left: 40px;">Provided that, if a group of shops or establishments decide to provide a common canteen, then the same shall be permitted by the Facilitator by an order, subject to such conditions as may be specified in the order.</p> |

CHAPTER-VI

FACILITATORS AND THEIR POWERS AND FUNCTIONS

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| Appointment of Chief Facilitator and Facilitators and their powers | <p>23. The Government may by notification in the Official Gazette appoint such person who possess such qualifications as may be prescribed to be the Chief Facilitator and Facilitator for the purposes of this Act and may assign to them such local limit as may think fit:</p> <p style="padding-left: 40px;">Provided that the Government may, by notification, appoint the Chief Facilitator as Facilitator who shall in addition to the powers of a Chief Facilitator under this Act, exercise the powers of a Facilitator as assigned and areas as specified in the notification.</p> |
| Powers and duties of the Chief Facilitator and the Facilitator | <p>24. (1) The State Government may prescribe a scheme for random inspection of shops and establishments which may provide for generation of a web based Inspection Schedule.</p> |

- (2) Every Chief Facilitator and Facilitator appointed under section 23 shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code, 1860 and shall be officially subordinate to such authority as the Government may specify in this behalf. Central Act
No.45 of
1860
- (3) Subject to such conditions as may be prescribed, the Facilitator may, within the local limits for which he is appointed-
- (i) advise the employers and workers and provide them such information as may be considered necessary for complying with the provisions of this Act effectively;
 - (ii) inspect the shops or establishments in accordance with the scheme for inspection referred to in sub-section (1) above, and may-
 - (a) enter at all reasonable time and with such assistants, if any, being persons in the service of the Government or of any local authority as he thinks fit, any place which is or which he has reason to believe is a shop or establishment;
 - (b) make such examination of the premises and of any prescribed registers, records and notices, and take on the spot or otherwise evidence of any persons as he may deem necessary for carrying out the purposes of this Act;
 - (c) examine any person who is found in any premises of the shop or establishment and whom, the Facilitator has reasonable cause to believe, is a worker of the shop or establishment;
 - (d) require any person to give any information, which is in his possession with respect to the names and addresses of the persons;
 - (e) search, seize or take copies of such register, record of wages or notices or portions thereof as he may consider relevant in respect of an offence under this Act and which he has reason to believe has been committed by the employer;

- (f) bring to the notice of the Government defects found during inspection; and
- (g) exercise such other powers, as may be prescribed:

Provided that, no person shall be compelled under this section to answer any question or give any evidence founding to indiscriminate himself.

- (4) Any person required to produce any document or to give any information required by Chief Facilitator or the Facilitator appointed under section 23 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code, 1860.

Central Act
No.45 of
1860

- (5) The provisions of the Code of Criminal Procedure, 1973 shall, so far as may be, apply to the search or seizure under sub-clause (e) of clause (ii) of sub-section (2) as they apply to the search or seizure made under the authority of a warrant issued under section 94 of the said Code.

Central Act
No.2 of 1974

CHAPTER VII RECORDS AND RETURNS

Maintenance of
Registers and
Returns

- 25. (1) Every employer shall maintain the registers and records, in such form and in such manner as may be prescribed.

- (2) The records may be maintained electronically or manually:

Provided that, at the time of inspection by a Facilitator, a hard copy of such records, if demanded, shall be submitted duly signed by the employer or his representative.

- (3) Every employer and in his absence the manager shall, on demand, produce for inspection of Facilitator all registers, records and notices required to be kept under and for the purposes of this Act.
- (4) All such registers and records shall be kept in the premises of the shop or establishment to which they relate.

Annual Returns

- 26. The employer of a shop and establishment shall furnish an annual returns, in such a form and in such manner (including in electronic form), to such authority as may be prescribed.

CHAPTER VIII

OFFENCES AND PENALTIES

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| Penalty for contravention of the provisions of this Act | <p>27. Whoever contravenes the provisions of this Act or the rules made there under shall be punishable with fine which may extend to rupees fifty thousand and in the case of a continuing contravention, with an additional fine which may extend to rupees two thousand for every day during which such contravention continues:</p> <p style="padding-left: 40px;">Provided that, the total amount of fine shall not exceed rupees two thousand per worker employed in a shop or establishment.</p> |
| Penalty for contravention of the provisions of this Act which resulted in accident | <p>28. Save as is otherwise expressly provided in this Act, where an employer on being held guilty of contravention of any of the provisions of this Act or any rules made there under which has resulted in an accident causing serious bodily injury or death of a worker, shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than rupees one lakh which may be extended to rupees two lakhs or with both.</p> |
| Penalty for obstruction or refusal to provide register, etc. | <p>29. (1) Whoever wilfully obstructs the Facilitator in exercise of any powers conferred on him by or under this Act or refuses or wilfully neglects to afford the Facilitator any reasonable facility for making any inspection, examination, inquiry or investigation authorised by or under this Act in relation to a shop or an establishment, shall be punishable with fine which may extend to rupees one lakh.</p> <p>(2) Whoever wilfully refuses to produce on the demand of the Facilitator any register or other document kept in pursuance of this Act or the rules made there under, or prevents or attempts to prevent or does anything which he has reason to believe to prevent any person from appearing before, or being examined by the Facilitator acting in pursuance of his duties under this Act, shall be punishable with fine which may extend to rupees two lakhs:</p> <p style="padding-left: 40px;">Provided that the total amount of fine shall not exceed two thousand rupees per worker employed.</p> |
| Cognizance of offences by companies | <p>30. (1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission</p> |

of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

- (2) Notwithstanding anything contained in sub section (1) above, where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, managing agent or any other officer of the company such director, manager, managing agent or such other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. - For the purpose of this section, -

- (a) "company" means any body corporate and includes a firm or other association of individuals; and
- (b) "Director" in relation to a firm, means a partner in the firm.

Cognizance of offences

31. (1) No court shall take cognizance of any offence punishable under this Act and the rules made there under unless a complaint in respect thereof is made by the Facilitator within three months of the date on which the alleged commission of the offence came to the knowledge of the Facilitator and a complaint is filed in that regard thereby:

Provided that where the offence consists of disobeying a written order made by a Facilitator, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

- (2) No Court inferior to that of a Judicial Magistrate of the first class shall try any offence punishable under this Act or the rules made thereunder.
- (3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a Judicial Magistrate of the first class may impose fine and penalties as provided under section 27 of this Act.

Central Act
No. 2 of
1974

Compounding of offences

32. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act, not being an offence punishable with fine, may, on an application of the accused person,

Central Act
No. 2 of
1974

either before or after the institution of any prosecution, be compounded by a Gazetted officer, as the Government may, by notification, in the Official Gazette, specify, for a sum of fifty percent of the maximum fine provided for such offence, in the manner as may be prescribed.

- (2) Nothing contained in sub-section (1) above, shall apply to an offence committed by a person for the second time or thereafter within a period of five years from the date-
 - (a) of commission of a similar offence which was earlier compounded;
 - (b) of commission of similar offence for which such person was earlier convicted.
- (3) Every officer referred to in sub-section (1) above, shall exercise the powers to compound an offence, subject to the direction, control and supervision of the Government.
- (4) Every application for the compounding of an offence shall be made in such form and manner as may be prescribed.
- (5) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.
- (6) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought by the officer referred to in sub-section (1) above, in writing to the notice of the Court in which the prosecution is pending and on such notice of the composition of the offence being given, the person against whom the offence so compounded shall be discharged.
- (7) Any person who fails to comply with an order made by the officer referred to in sub-section (1) above, shall be liable to pay a sum equivalent to twenty percent of the maximum fine provided for the offence, in addition to such fine.
- (8) No offence punishable under the provisions of this Act shall be compounded except under and in accordance with the provisions of this section.

CHAPTER IX MISCELLANEOUS

Protection of
action taken in
good faith

33. No suit, prosecution or other legal proceedings shall lie against any public servant or any other person serving under the Central or the State Government, acting under direction of any such public servant, for anything in good faith done or intended to be done in pursuance of the provisions of this Act or of any rule made there under.

Opening and
closing hours

34. (1) Notwithstanding anything contained in this Act, any shops or establishments if situated,-

- (i) (a) in Municipal Corporation Area, or
- (b) on National Highway, or
- (c) on Railway platform, or
- (d) at State Roadways bus station premises, or
- (e) in Hospital premises, or
- (f) on Petrol Pumps, shall remain open 24 hours on any day of the week:

Provided that, the worker shall be allowed to work in accordance with the provisions of sections 13,15 and 17 of this Act;

- (ii) in Municipality area or on State Highway may be opened except from 2.00 A.M to 6.00 A.M:

Provided that, the worker shall be allowed to work in accordance with the provisions of sections 13,15 and 17 of this Act;

- (iii) in the areas other than the areas mentioned in clauses (i) and (ii) above, any shop or establishment in the districts or on minor roads may be opened except from 11.00 P.M. to 6.00 A.M:

Provided that, the worker shall be allowed to work in accordance with the provisions of sections 13,15 and 17 of this Act;

- (2) Notwithstanding anything contained in sub-section (1), considering the circumstances relating to traffic, public health, public safety, public nuisance or such other reason which may affect law and order situation, the hours for opening and closing of

- different classes of shops or establishments and for different premises, shopping complex or mall or for different area or areas and for different period may be curtailed by such authority as the Government may, by notification in the Official Gazette, specify.
- Power to grant exemptions 35. The Government or any officer empowered in this behalf may, by notification, exempt from the operation of all or any of the provisions of this Act for any period it is considered, any shop or establishment or class thereof or any employer or worker or class of employers or workers to whom this Act applies on such terms and conditions as it may think fit.
- Suspension of the operation of provisions of the Act 36. The Government may by notification in the Official Gazette, suspend the operation of all or any of the provisions of this Act for such period and subject to such conditions as it deems fit on account of any festive or other occasions.
- Act not in derogation of any other law 37. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.
- Power to make rules 38. (1) The Government may by notification, make rules for carrying out the provisions of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-
- (a) the form and manner in which an application shall be made under sub-section (1), the form of Labour Identification Number under sub-section (1), the fees and self-certified documents under sub-section (2), other particulars under clause (v) of sub-section (2), manner, form and time under sub-section (3) of section 6;
 - (b) form, documents, other details, the form and manner of receipt of intimation, form of register under sub-section (1) and fees and form of renewed registration certificate under sub-section (3) of section 7;
 - (c) manner of cancellation of registration under section 8 ;
 - (d) form, fees, period and notice of change of particulars under section 9;

- (e) form and manner of information to the Chief Facilitator under section 10;
 - (f) measures to be taken by the employer relating to the health and safety (including cleanliness, lighting, ventilation and prevention of fire) of the workers under sub-section (1) of section 12;
 - (g) number of hours of work under clause(i) of sub-section 4 of section 13;
 - (h) conditions subject to which the provisions of sub-section (1) and (2) of section 13 shall apply to certain class of workers under sub-section (5);
 - (i) particulars of Identity Card under section 16;
 - (j) provisions of sufficient rest-rooms, latrine and urinals under section 19 and the provision of first-aid facilities under section 21;
 - (k) qualifications of the Facilitators under section 23;
 - (l) scheme for random inspection of shop and establishment under sub-section (1) of section 24;
 - (m) conditions subject to which the Facilitator shall exercise his powers under sub-section (3) of section 24;
 - (n) the registers and records to be maintained by the employers under sub-section (1) of section 25;
 - (o) the form and manner (including electronic form) for furnishing of annual return and the authority to whom such returns shall be furnished under section 26;
 - (p) the manner of compounding of offences under sub-section (1) and the form and manner for making application for such compounding under sub-section (4) of section 32;
 - (q) any other matter which is required to be, or may be, prescribed.
- (3) Every rule made by the Government under this Act shall be laid, as soon as may be after it is made, before the State Legislative Assembly.

Power to remove
difficulties

39. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion arises, by an order published in the Official Gazette, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purposes of removing the difficulty:

Provided that, no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

- (2) Every order made under sub-section (1) above, shall be laid, as soon as may be, after it is made, before the State Legislature.

Repeal and
saving

40. The Assam Shops and Establishments Act, 1971 is hereby repealed:

Assam Act
No. XXI of
1974

Provided that,-

- (a) every appointment, order, rule, bye-law, regulation, notification, registration or notice made, issued or given under the provisions of the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been made, issued or given under the provisions of this Act, unless and until superseded by any appointment, order, rule, bye-law, regulation, notification or notice made, issued or given under this Act;
- (b) any proceeding relating to the trial of any offence punishable under the provisions of the Act so repealed shall be continued and completed as if the said Act had not been repealed but had continued in operation and any penalty imposed on such proceedings shall be recovered under the Act so repealed.

GEETANJALI DAS SAIKIA,

Secretary to the Government of Assam,
Legislative Department, Dispur, Guwahati-6.